

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 ANDRADE ET AL § CASE NO. 4:24-mc-00248
5 VERSUS § HOUSTON, TX
6 IRS-SD TX § WEDNESDAY,
§ MAY 1, 2024
§ 3:05 P.M. TO 3:20 P.M.

7 MOTION HEARING

8 BEFORE THE HONORABLE DREW B. TIPTON
9 UNITED STATES MAGISTRATE JUDGE

10 APPEARANCES:

11 FOR THE PARTIES: SEE NEXT PAGE
12 COURT REPORTER: KELLI PAPAIOANNOU
13 COURT CLERK: G. CLAIR
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APPEARANCES:

FOR THE PLAINTIFF:

PRATT FLACK LLP
Paul D. Flack, Esq.
4306 Yoakum Boulevard
Suite 500
Houston, TX 77006
713-705-3087

FOR THE DEFENDANTS:

U.S. DEPARTMENT OF JUSTICE
TAX DIVISION
Eduardo Rene Mendoza, Esq.
717 N. Harwood Street
Suite 400
Dallas, TX 75201
214-880-9735

1 HOUSTON, TEXAS; WEDNESDAY, MAY 1, 2024; 3:05 P.M.

2 THE COURT: Okay, please be seated. All right, you
3 can call it.

4 CLERK: The Court calls Miscellaneous Action 4:22-
5 248, Andrade et. al. versus IRS-SD TX. May I have appearances
6 by counsel?

7 MR. MENDOZA: Eduardo R. Mendoza on behalf of the
8 United States. Good afternoon, Your Honor.

9 MR. FLACK: Paul Flack as withdrawing counsel for Mr.
10 Andrade and ABTC Corp.

11 MR. ANDRADE: Rowland Marcus Andrade.

12 THE COURT: All right. All right. So we're here on
13 the motion to withdrawal. We also have that proposed order
14 that we haven't, we've never signed. Is that correct? So why
15 don't we get that done?

16 MR. ANDRADE: Should I start?

17 THE COURT: Sure.

18 MR. ANDRADE: With all respect, sir, me and Mr.
19 Mendoza were going back and forth trying to -- I requested
20 clarification on the amount summonses. And I asked him to let
21 me see the transcript. Right after that, he went ahead and
22 sent a message to Paul about filing a competing order.

23 THE COURT: So you put -- I've noticed all the
24 language that you included in here was a whole bunch of "Since
25 what was said at the hearing was this, since what was said in

1 the hearing was that." You can stand up. It's okay. All
2 right. And so you had a lot of language that is available in
3 the hearing that you just kind of wanted to put in there
4 because, quite frankly, it seemed a little self-serving.

5 We had an agreement amongst the attorneys and you had
6 things that said something like the effect of, "since Mr. James
7 confirmed at the hearing that the only summonses issued were
8 X." So it doesn't change anything that was in the order. Is
9 this what the relationship fell apart over with your attorney?

10 MR. ANDRADE: No. It was the proposed order that was
11 sent about two hours prior to that. Okay. I didn't see the
12 proposed order until after it was sent off. And, you know, the
13 government deleted points out from the proposed order. The,
14 the issue of the order, sir, in my opinion, was is the motion
15 to quash really moot after the government already takes it?
16 And normally, naturally, everybody would think it was moot and
17 that the court couldn't order any type of relief. You know,
18 normally, that's what everyone would think.

19 THE COURT: So my question to you is what is in this
20 order that is inconsistent? Because I went back and listened
21 to the hearing. What in this order is inconsistent with what I
22 held on the bench?

23 MR. ANDRADE: With all respect, sir, the government
24 states, did state what was specific that there were only the
25 two, the September summons, the May summons, and the one

1 containing the -

2 THE COURT: I understand we're back to the summonses.
3 Listen to my question. What in this order is inconsistent with
4 what my rulings were as opposed to what was said at the
5 hearing?

6 MR. ANDRADE: Forgive me, Your Honor. I didn't bring
7 the papers.

8 THE COURT: Here you go. Kelli, will you hand that
9 to him?

10 MR. ANDRADE: Thank you.

11 THE COURT: I went back and listened to the hearing
12 and that seems fairly consistent with what I held. Now I know
13 you wanted some additional information that you think would
14 help you out. But that doesn't change my ruling. Like I said,
15 the hearing is what was said on the record.

16 You can request a copy of that transcript, but
17 everything that is said in the transcript doesn't make its way
18 into an order. So what in that -- let's go down one by one.
19 Go ahead. What in there did I, are you saying that I did not
20 rule from the bench on?

21 MR. ANDRADE: Okay. As far as on one, sir, and I do
22 believe that is on the record, that the ruling for the first
23 one is -

24 THE COURT: So on Number 1, you had proposed
25 language. I ruled this was denied as moot. And then you

1 wanted to add "since Ms. James confirmed that the only summons
2 issued were those attached to the pleadings." All that doesn't
3 change my ruling.

4 That's just something you want in my order. That
5 doesn't change my ruling. So what about Number 1 is wrong?
6 Should I have granted?

7 MR. ANDRADE: So the court was relying on the
8 information provided by the government.

9 THE COURT: Which is in the transcript. But I'm
10 talking about what was in this order. So my ruling was, with
11 respect to Number 1, that it was denied as moot. Sounds like
12 everybody agreed to that, but you wanted to put extra stuff in
13 there. That doesn't change my ruling. So why does it need to
14 be in there?

15 MR. ANDRADE: The information was coming from the
16 government and at the same time, The Court can offer partial
17 relief.

18 THE COURT: So you didn't ask for that. My ruling
19 was denied -- that it was going to be denied as moot, which is
20 what I said. You may not have liked it, but that's what my
21 ruling was. But you wanted to put some additional information,
22 "Since Ms. James confirmed," and you did that for all of this.

23 And for the next one, you said you didn't want to
24 change the denied. You were okay with that in your letter
25 dated April 15th, 2024. It's Document 11-4. You didn't change

1 any of the rulings. All you wanted to do was add information
2 that was self-serving that is in the -- that was said on the
3 record by people other than me. Now why would I include that
4 in my word?

5 MR. ANDRADE: It was my opinion that that's what the
6 court relied on. That was the only reason for that.

7 THE COURT: All right. So, I didn't see anything
8 that was in that proposed order that you wanted me to change
9 the ruling as far as the denied, denied as moots, and the
10 granted. You just wanted extra stuff in there.

11 MR. ANDRADE: I just wanted the record to show that
12 the court would relied upon what the government stated in the
13 hearing.

14 THE COURT: Let me ask this again. Is there anything
15 on there that you think should have -- that is incorrect as far
16 as denied as moot or granted?

17 MR. ANDRADE: Okay. So then let me see the that's
18 wrote -

19 THE COURT: You can have your letter. Here it is.

20 MR. ANDRADE: Thank you. On Number 2, you correct
21 sir, it was denied as moot since the government stated -

22 THE COURT: Right. You want that extra stuff. Do
23 you want me to change denied as moot or do you want me to grant
24 the government's motion and let them have at your documents?

25 MR. ANDRADE: They already have the documents.

1 THE COURT: Okay. So let me ask you. Go through
2 those. Don't talk to me about the extra language that's in
3 there that the government said. Tell me what ruling you
4 disagree with in the proposed order as far as the denied or
5 granted. Which one do you think is wrong?

6 MR. ANDRADE: I believe the first one is wrong. I
7 believe that more summonses exist.

8 THE COURT: No, I denied --

9 MR. ANDRADE: Okay.

10 THE COURT: I denied it, right?

11 MR. ANDRADE: I'll move to the next one.

12 THE COURT: Because you don't want me to grant it.
13 Right?

14 MR. ANDRADE: I do. I'd like them to show us all the
15 summonses that exist. I would expect there to be more summons.

16 THE COURT: All right.

17 MR. ANDRADE: Okay? Because I couldn't get the
18 government to agree to be specific. So that was the -

19 THE COURT: All right. Let's do this. I'm going to
20 move on to the motion to withdraw. I'm going to grant the
21 motion to withdraw. It's agreed, right? You do not oppose it?

22 MR. ANDRADE: I don't oppose it. I do have counsel
23 that should be filing --

24 THE COURT: You got counsel. Okay. Because I'm
25 going to tell you something. You can represent yourself pro

1 se. You've got that right. You can absolutely do that. But
2 ABTC Corporation cannot be represented by you because you're
3 not an attorney, correct?

4 MR. ANDRADE: Yes, sir.

5 THE COURT: All right. So it will not be able to
6 represent itself. So, whatever the government does at some
7 point, you will be in default and you won't be able to contest
8 it. Do you understand?

9 MR. ANDRADE: I'll have a notice of appearance no
10 later than Monday.

11 THE COURT: All right.

12 MR. ANDRADE: I already have a contract with counsel,
13 sir.

14 THE COURT: All right. So you're no longer
15 requesting for me to appoint you a counsel.

16 MR. ANDRADE: No, sir.

17 THE COURT: Okay.

18 MR. ANDRADE: (indiscernible).

19 THE COURT: Go ahead.

20 MR. ANDRADE: With all due respect, sir, I'm
21 tremendously sorry for having a panic attack, and I started
22 breathing heavily last time. I swear to you -

23 THE COURT: I don't even remember you doing that.

24 MR. ANDRADE: I did. I had a panic attack right here
25 and I started breathing very, very heavily. Mr. Paul was right

1 beside me. I haven't been seen since that day. I'm really pro
2 se, sir. You don't remember me doing that, sir --

3 THE COURT: I do not.

4 MR. ANDRADE: But most likely, I did.

5 THE COURT: All right. So I'm going to grant
6 Document Number 12. You're going to have somebody who's going
7 to file a notice of appearance when?

8 MR. ANDRADE: No later than Monday.

9 THE COURT: All right, so they'll file on Monday.
10 Otherwise, I'm moving forward and so will the government.
11 Okay? Did you have a proposed order?

12 MR. FLACK: Yes, Your Honor. We submitted one with
13 the motion. I have a copy if you'd like.

14 THE COURT: All right. No, I've got it here. So you
15 can file the, which is 12-1. All right. So that is granted.
16 We'll get the proposed order that we're dealing with the merits
17 of the previous motion. What's the next steps in this case
18 then after this? We've got the briefing coming?

19 MR. ANDRADE: The briefings are done. It's just the
20 rulings.

21 THE COURT: That's what I'm saying.

22 MR. MENDOZA: So it looks like the briefing is
23 complete, Your Honor.

24 THE COURT: I'm talking about because he's got new
25 counsel. Does he need some time to be able to weigh in?

1 MR. MENDOZA: He filed his response, Your Honor, this
2 past Saturday.

3 THE COURT: Oh, is that his new counsel that did
4 that?

5 MR. MENDOZA: No. It was him, himself, actually.
6 pro se I believe.

7 THE COURT: Right. And I'm talking about who is
8 going to represent you?

9 MR. ANDRADE: His name is E. Rhett Buck.

10 THE COURT: All right.

11 MR. ANDRADE: And he's from the E. Rhett Buck Law
12 Firm.

13 THE COURT: All right. So I know that he filed it
14 pro se, but he can't file anything on behalf of ABTC Corp. and
15 so I'm trying to figure out what we're doing for scheduling
16 since he's got new counsel coming in to look at and/or
17 supplement what was filed and to file something on behalf of
18 the corporation.

19 MR. MENDOZA: Understood.

20 MR. ANDRADE: Your Honor, on my behalf, sir, Mr.
21 Flack went and filed it on my behalf. Okay.

22 THE COURT: I didn't see that.

23 MR. ANDRADE: So I did file technically. So I
24 wouldn't do Pacer, I had counsel technically. He filed it. So
25 in my opinion, it's just the ruling.

1 THE COURT: So they filed - you filed - you've
2 already done the briefing on behalf of the corporation?

3 MR. FLACK: No, Your Honor.

4 THE COURT: Yeah, I didn't see that.

5 MR. FLACK: He sent me a paper he asked me to file.
6 And I filed it, but it's signed by him.

7 THE COURT: Okay. All right. So you cannot file
8 something on behalf of the corporation. You are not a lawyer.
9 So a corporation has to be represented by an attorney. All
10 right?

11 So at this point, I do not have a response from ABTC
12 Corp. So, your new attorney can come in and I'll give him a
13 week to file something and to clean up what you filed. And
14 then, I'm going to rule. Okay? All right. Okay. Anything
15 further?

16 MR. FLACK: No, Your Honor.

17 MR. MENDOZA: No, Your Honor, not from the
18 government.

19 THE COURT: All right. Everybody is excused. Thank
20 you.

21 (Hearing adjourned at 3:17 PM)

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I N D E X

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.

A handwritten signature in dark ink, reading "Sonya M. Ledanski Hyde". The signature is written in a cursive, flowing style.

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: October 10, 2024